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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/716,467 11/20/2003		Hans-Peter Mayer	Q78456	6852	
23373 75	90 07/21/2005	EXAMINER			
SUGHRUE MION, PLLC			HEALY, BRIAN		
2100 PENNSYLVANIA AVENUE, N.W. SUITE 800			ART UNIT	PAPER NUMBER	
WASHINGTO	N, DC 20037		2883		

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Total Content Tota							
Examiner Brian M. Healy 2883			Application	ı No.	Applicant(s)		
Examiner Brian M. Healy 2883		055	10/716,467	•	MAYER, HANS-	PETER	(Eu
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Exercision for manyby exhibition under the provision of 37 CPR 1.136(a). In or event, however, may a reply be timely filed if the period for reply specified above is less than lately (30) days, a reply within the statulory minimum of thinky (30) days will be considered limity. If the period for reply specified above, the maximum statistic protein will apply and will specify 6(d) MONTHS from the realizing date of this communication. Failure to signly within the set or estended period for early will specified protein the second second and the replication is set or estended period for early will statistic protein will select the communication. Failure to signly within the set or estended period for early will specify and will specified (6) MONTHS from the realizing date of this communication. Failure to signly within the set or estended period for early will specified the second sec		Office Action Summary	Examiner		Art Unit		\
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1)⊠ Responsive to communication(s) filed on <i>Issue withdrawal letter</i> . 2a)□ This action is FINAL. 2b)⊠ This action is non-final. 3]□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4]⊠ Claim(s) <i>1-10</i> is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5]□ Claim(s) is/are allowed. 6]☑ Claim(s) * is/are allowed. 6]☑ Claim(s) * are subjected to. 8]□ Claim(s) * are subject to restriction and/or election requirement. Application Papers 9]□ The specification is objected to by the Examiner. 10)☑ The drawing(s) filed on *_20 November 2003* is/are: a)☑ accepted or b)□ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11)□ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12)□ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)□ All b)□ Some * c)□ None of: 1.□ Certified copies of the priority documents have been received. 2.□ Certified copies of the priority documents have been received in Application No 3.□ Copies of the certified copies of the priority documents have been received in Application No 3.□ Copies of the certified copies of the priority documents have been received in Application No 4)□ Interview Summary (PTO-413) Paper No(s)/Mail Date Paper No(s)/Mail Date 1)□ Notice of References Cited (PTO-892) 1)□ Notice of References Cited (PTO-1439 or PTO/SB/08) 5)□ Notice of Informal Patent Application (PTO-152) 6)□ Other: 1)□ Other 1)□ Other 1)□ Other 1)□ Other	THE - Exte after - If the - If NC - Failu Any	MAILING DATE OF THIS COMMUNICATION nsions of time may be available under the provisions of 37 CFR of SIX (6) MONTHS from the mailing date of this communication. It period for reply specified above is less than thirty (30) days, a representation of the properties of the provisions of the properties of the provisions of the properties o	1.136(a). In no ever eply within the statut od will apply and will ute, cause the applic	ort, however, may a repl ory minimum of thirty (i expire SIX (6) MONTH cation to become ABAN	ly be timely filed (30) days will be considered tim 1S from the mailing date of this NDONED (35 U.S.C. § 133).	ely. communicatio	on.
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DETAILED ACTION

Allowable Subject Matter

Applicant is advised that the Notice of Allowance mailed 3/11/2005 (See also 'Notice of Withdrawal from Issue Under 37 CFR 1.313" signed by Director, Janice Falcone) is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account. The Examiner regrets any inconvenience to Applicant caused by this action.

The indicated allowability of claims 1-10 is withdrawn in view of the newly discovered reference(s) to (see applied references listed below). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent

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protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "at least one piece of waveguide structure", and the claim also recites "in particular, a piece of fiber" which is the narrower statement of the range/limitation. Claims 2-5 are dependent claims that are also rejected as being inclusive of rejected claim 1.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention as is described above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1,6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et. al., U.S.P. No. 4,233,506.

Yamamoto et. al. 506' teaches (Figs.1-18) a planar lighwave circuit and method of making same comprising: an optical device 8 including an angled piece of a fiber bundle or fiber array that has at least one thin film layer 19 deposited on at least one end facet and held by planar lightwave substrate 24. The method of making the device involved cutting or sawing a fiber bundle or array at an angle and then depositing the thin film layer. The teachings of Yamamoto et. al. 506' clearly, fully meets Applicant's claimed limitations.

Claims 1,2 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et. al., U.S.P. No. U.S. 2002/0197008A1.

Kim et. al. 008' teaches (Figs.1-2) a planar waveguide circuit 200 multiplexer/duplexer comprising: an optical device comprising a piece of waveguide 200a (Note that although this is an integral structure the waveguide 200a is also considered a sub-component or piece of the whole device) of waveguide structure with at least one thin-film filter 201 placed at the end facet of the waveguide structure which clearly, fully meets Applicant's claimed limitations.

Claims 1,3,4,6,7 and 9 rejected under 35 U.S.C. 102(e) as being anticipated by Lee et. al., U.S.P. No. 6,909,830.

Lee et. al. 830' teaches (Figs.1-12) a planar waveguide device 1110 and method of making same comprising: at least one piece of waveguide structure 2000 (this can be a fiber bundle or array) that is placed inside of a recess 3060 in the planar lightwave circuit with the faceted end being angularly cut (with respect to the fiber axis) or sawed, polished and coated with a thin film layer 2050 and used in conjunction with an index matching material, which clearly, fully meets Applicant's claimed limitations.

Allowable Subject Matter

Claims 8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the references of record teaches or suggests joining fibers into fiber bundles and fiber arrays using matrix materials, as is

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desribed in claim 8 and having the fiber pieces separated from a fiber plate after thin

film deposition, as is stated in claim 10.

The following references are also cited by the Examiner as being pertinent prior

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art: Jackson et. al., U.S.P. No.5,321,251 (Figs.1-8B) and Walker et. al., U.S. Patent

Application Publication No. US 2002/0168157 A1 (Figs.1-28).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Brian M. Healy whose telephone number is (571)272-

2347. The examiner can normally be reached on Compressed schedule Tues.-Thurs.

7AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Frank Font can be reached on (571)272-2415. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Brian M. Healy Primary Examine

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Brian Healy

Primary Examiner